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STATE OF CONNECTICUT

INSURANCE DEPARTMENT

Testimony

Insurance and Real Estate Committee

March 18, 2014

Raised H.B. No. 5578 AN ACT CONCERNING THE HEALTH INSURANCE GRIEVANCE PROCESS FOR ADVERSE DETERMINATIONS.

Senator Crisco, Representative Megna, and members of the Insurance and Real Estate Committee, the Insurance Department respectfully opposes **Raised House Bill No. 5578: An Act Concerning The Health Insurance Grievance Process for Adverse Determination**. Generally, raised Bill No. 5578 would specify the clinical peers for psychiatrists and psychologists; change references to clinical peers to individuals for purposes of conducting utilization reviews; and delete references to the Division of Consumer Affairs within the Insurance Department in certain notices provided to covered persons.

As we've all heard Connecticut carriers say in the past, regulatory certainty is imperative in order for them to effectively carry out fledgling health care reforms. H.B. 5578 is one more bill in a series of bills that have been introduced in this session and recent past sessions dealing with the credential and specialty requirements of peer review networks used for utilization review and/or appeals following an adverse determination. Depending on the clinical specialty or advocacy group seeking the change, these proposals have in various forms narrowed the definitions of a clinical peer, or broadened the definitions in a way which has created considerable regulatory uncertainty as to how a peer review panel must be staffed. The narrower the credentials, and the more specialty requirements added, the more difficult it becomes to build and maintain an adequate network to conduct peer reviews. Similarly, removing basic requirements can create a network where appropriate peer review cannot be performed. Changes were made to the definition of clinical peer in the 2013 legislative session that enhanced the clinical requirements for peer matching; we believe those revisions were sufficient and the definition should not be altered any further.

The Department is also in opposition to the removal of the Insurance Department from the notice requirement as found in section four of this bill. Our utilization review, grievance and appeal law is based on the NAIC Model which has been designated in the Affordable Care Act as the legislative model for a state to maintain statutory oversight of these programs for fully insured benefit plans. Connecticut enacted the NAIC Model and was designated as an NAIC Parallel State, meaning that our law adheres to the ACA requirements for utilization review, grievance and appeal procedures and as such, we may retain authority over the processes and not cede oversight or operations to the federal government which has a parallel process for self-funded plans. Included in the Model are provisions indicating that notices include the Insurance Regulatory Authority as the contact for consumer assistance. While there is no requirement for

the Healthcare Advocate to be included in the notices, the Department did include OHA at its own discretion. The Department provided contact information for both the Insurance Department Consumer Affairs Division which oversees the utilization review, grievance and appeals processes for the state, as well as the OHA office as a secondary consumer assistance resource. In the 2013 legislative session, sections 38a-591d and 38a-591f were amended to include references to the federal statutes which address the federal laws applicable to the self-funded programs. These references are inappropriate in state laws which govern fully insured programs. Therefore, while we believe the intent of the proposed deletion of the Insurance Department contact information in H.B. 5578 is to make it clear that self-funded plans can seek assistance from the OHA rather than the Insurance Department, we believe the more appropriate amendment would be to remove the references to the federal statutes which refer to the federal program and not the state insurance laws as enacted in sections 38a-591a *et seq*.

The Department thanks the Insurance Committee Chairs and members for the opportunity to provide this testimony on this bill. We respectfully request that H.B. 5578 not be given a Joint Favorable report.